

UNITED STATES BANKRUPTCY COURT
WESTERN DISTRICT OF VIRGINIA
HARRISONBURG DIVISION

IN RE:)	
)	Chapter 7
RENE ARMANDO PICOTA)	Case Number 24-50401
and)	
AMBER D'ANN PICOTA)	
<u>Debtors</u>)	
)	
MATTHEW W. CHENEY,)	
Acting United States Trustee For Region 4,)	
)	
Movant,)	
)	
v.)	
)	
RENE ARMANDO PICOTA)	
and)	
AMBER D'ANN PICOTA)	
<u>Respondents</u>)	

NOTICE OF HEARING

PLEASE TAKE NOTICE that the hearing on this Motion shall be held March 20, 2025 at 10:00 a.m. before the Honorable Rebecca B. Connelly, Judge of the United States Bankruptcy Court for the Western District of Virginia. The hearing shall be held via Zoom for Government using the following information: Meeting ID: 160 369 2643; URL: <https://vawb-uscourts-gov.zoomgov.com/j/1603692643>.

If you do not want the Court to grant the relief requested in the motion, then, pursuant to Local Rule 9013-1, you must file a response on or before 7 days prior to the hearing. Absent a timely filed response, the Court may treat the motion as conceded and enter the proposed order without the necessity of holding a hearing.

**MOTION FOR AN ORDER AUTHORIZING RULE 2004 EXAMINATIONS AND THE
ISSUANCE OF SUBPOENAS**

Matthew W. Cheney, Acting United States Trustee for Region Four, by counsel, moves the Court pursuant to §§ 105(a), 307, and 727 of the United States Bankruptcy Code, 11 U.S.C. § 101 *et seq.* (the “Bankruptcy Code”), and Rule 2004 of the Federal Rules of Bankruptcy Procedure (the “Bankruptcy Rules”) for entry of the proposed order attached as **Exhibit 1**: (i) authorizing the

United States Trustee to conduct Rule 2004 examinations of the above-referenced Debtors; (ii) directing the Debtors to appear at a Rule 2004 examination; (iii) authorizing the United States Trustee to issue subpoenas to compel the production of documents from the Debtors and others and (iv) the authorizing the United States Trustee to issue subpoenas to compel the attendance of witnesses other than the Debtors at Rule 2004 examinations. In support of this motion, the United States Trustee respectfully states as follows:

General Background

1. The United States Trustee is a Department of Justice official charged with, among other things, supervising bankruptcy case administration. 28 U.S.C. § 586(a)(3). United States Trustees “serve as bankruptcy watch-dogs to prevent fraud, dishonesty, and overreaching in the bankruptcy arena.” H.R. Rep. No. 95-595, at 88 (1977), reprinted in 1978 U.S.C.C.A.N. 5963, 6049; *In re A-1 Trash Pickup, Inc.*, 802 F.2d 774, 775 (4th Cir. 1986). The United States Trustee is authorized to file a complaint objecting to a debtor’s discharge. 11 U.S.C. § 727(c)(1).

2. This is a core proceeding pursuant to 28 U.S.C. §§ 157(b)(2).

3. This Court has jurisdiction over this matter pursuant to 28 U.S.C. §§ 157 and 1334.

4. Venue is proper pursuant to 28 U.S.C. §§ 1408 and 1409.

5. On July 23, 2024, the Debtors filed a voluntary petition for relief under chapter 7 of the Bankruptcy Code.

6. The Debtors filed schedules and statements in support of and along with their petition on July 23, 2024. The schedules and statements filed by or on behalf of the Debtors are incorporated by reference.

7. The deadline to file a Complaint objecting to the Debtors discharge was set for October 21, 2024.

8. The meeting of creditors in the Debtors case was conducted on August 21, 2024.

9. The Debtors discharge was entered on October 30, 2024. *See* Docket No. 18.

10. The Chapter 7 Trustee, George I. Vogel, II, notified the Office of the United States Trustee of discrepancies with information he had received regarding a 2024 Kia as to whether the vehicle was encumbered by a lien at the time of the filing of the case.

11. To examine these questions, pursuant to Rule 2004, the United States Trustee wishes to issue subpoenas to obtain DMV records and/or lien information and to examine the Debtors.

12. The Debtors case is currently open.

Basis For Relief

13. The Bankruptcy Rules provide, “[o]n motion of any party in interest, the court may order the examination of any entity,” Fed. R. Bankr. P. 2004(a), and the examination may related to:

acts, conduct, or property or to the liabilities and financial condition of the debtors, or to any matter which may affect the administration of the debtors estate, or to the debtors right to a discharge.

Fed. R. Bankr. P. 2004(b).

14. The Court may order a debtors to be examined pursuant to Rule 2004. Fed. R. Bank. P. 2004(d).

15. Examinations under Rule 2004 may be had of non-debtors. *See* Fed. R. Bank. P. 2004(a) (“The court may order the examination of any entity.”).

16. An order authorizing a Rule 2004 examination may be entered ex parte. *In re Wilcher*, 56 B.R. 428, 434 (Bankr. N.D. Ill. 1985).

17. The United States Trustee desires to examine the Debtors and third parties regarding, among other things, the assets and liabilities of the Debtors, specifically pertaining to the 2024 Kia and other matters affecting the administration of the Debtors estate.

18. The United States Trustee is also seeking authority to under Rule 2004 to issue subpoenas to compel the production of documents or the attendance of witnesses to other persons that he may discover in his investigations.

WHEREFORE, Matthew W. Cheney, by counsel, respectfully requests this Court enter the attached proposed order and grant such other and further relief and this Court shall deem appropriate.

Date: February 11, 2025

Respectfully submitted,
MATTHEW W. CHENEY,
Acting United States Trustee for Region 4

By: /s/ Margaret K. Garber

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CERTIFICATE OF SERVICE

I certify that on February 11, 2025, I caused the foregoing to be electronically filed with the United States Bankruptcy Court for the Western District of Virginia which caused electronic notifications of filing to be served on all registered users of the CM/ECF System that have appeared in this case, including counsel for the Debtors.

/s/ Margaret K. Garber